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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,770	10/14/2003	Thomas W. Kampf	02316.1220USD1	6337
23552	7590	11/28/2007		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	
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			11/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/685,770

Applicant(s)

KAMPF ET AL.

Examiner

Essama Omgba

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/17/2007 & 11/14/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 17, 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the base elements" in line 10. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Miranda (US Patent 6,107,575).

Miranda discloses a method of assembling a cable routing system 1 wherein a base element 2 is provided, the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, each linear mating edge having a continuous cross-section along the length of each linear mating edge, and each linear mating edge defining a first mounting structure, a plurality of side elements 3 mounted to the base element along the linear mating edges by attaching second mounting structures formed on the side elements with the first mounting structure of the respective linear mating edge, the first and second mounting structures being connected to couple the side elements to the base elements, the side elements 3 having an upstanding wall portion extending to a vertical height above the planar top surface of the base elements, see figures 1, 2, and 5-7. Applicant should note that such cable routing systems typically include side exits extending transversely relative to the linear mating edges and downspout portions defining a pathway extending from the planar top surface to a location below the planar top surface. Such cable routing systems are also typically formed of a plurality of base and side elements connected to each other, the base elements being mounted at a vertical height above a telecommunications bay.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 are, *in the alternative*, rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard (US Patent 6,450,458) in view of Miranda.

Bernard discloses a method of assembling a cable routing system 200 wherein a base element 220 is provided, the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, a plurality of side elements 210 mounted to the base element by being integrally formed with the base element, a first plurality of the side elements 210 having an upstanding wall portion extending to a vertical height above the planar top surface of the base elements, a second plurality of the side elements defining side exits extending transversely to the edge of the base element and down spout portions to define a cable pathway extending from the planar top surface to a location below the planar top surface, see figures 1, 6, 10, 12 and 13. Although Bernard does not disclose the base element comprising a planar top surface having a linear mating edge on opposite sides of the planar top surface, each linear mating edge having a continuous cross-section along the length of each linear mating edge, and each linear mating edge defining a first mounting structure, a plurality of side elements 3 mounted to the base element along the linear mating edges by attaching second mounting structures formed on the side elements

with the first mounting structure of the respective linear mating edge, the first and second mounting structures being connected to couple the side elements to the base elements, however such construction of a cable routing system is known as attested by Miranda, see figures 1, 2, and 5-7. Therefore it would have been obvious to form the cable routing system of Bernard from separate elements as taught by Miranda, in order to be able to transport the cable routing system in a flat space-saving condition and to form it, at a site of use, into a U-Shape cable channel by appropriately connecting the base and side elements. The examiner notes that such modification of the method of Bernard would have been obvious to try since it would have amounted to choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success. Applicant should note that the cable routing system of Bernard is formed of a plurality of base and side elements connected to each other. Also such cable routing systems are typically mounted so that the base elements are mounted at a vertical height above a telecommunications bay.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
November 25, 2007